

**FLATHEAD COUNTY PLANNING AND ZONING**  
**MAJOR LAND USE PERMIT #FCMU-14-01**  
**LINDSEY BENGTON**  
**APRIL 30, 2014**

A report to the Flathead County Planning Board and the Board of County Commissioners regarding a request for a Major Land Use Permit to establish five 'Guest Cabins' for rental on a property within the Middle Canyon Region of the Canyon Area Land Use Regulatory System (CALURS).

This application will be heard at the Flathead County Planning Board meeting on Wednesday May 14, 2014, beginning at 6:00 PM, on the 2<sup>nd</sup> Floor in the Conference Room of the Earl Bennett Building in Kalispell. Documents pertaining to this application are available for public inspection at the Flathead County Planning and Zoning Office, located in the Earl Bennett Building at 1035 First Avenue West, Kalispell, Montana.

**Application Review Updates**

- **Land Use Advisory Committee/Council**

The proposed land use is located within the advisory jurisdiction of the Middle Canyon Land Use Advisory Committee (MCLUAC). While the MCLUAC was provided notification of the proposal, no public meeting of the MCLUAC was held due to a lack of a quorum, and therefore the MCLUAC has forwarded no recommendation to the Flathead County Planning Board.

- **Planning Board**

The Flathead County Planning Board will hold a public hearing on the proposed land use on May 14, 2014 and make a recommendation to the Flathead County Board of Commissioners. This space is reserved for a summary of the Planning Board's discussion and recommendation.

- **Commission**

The Flathead County Board of Commissioners will review this proposal after the public hearing conducted by the Planning Board and prior to July 2, 2014 which is the end of the 60 day review period per Section 3.3 CALURS. This space is reserved for a summary of the Commissioner's discussion and decision.

**I. GENERAL INFORMATION**

**A. Application Personnel**

- i. Applicant**

Lindsey Bengton  
P.O. Box 586  
West Glacier, MT 59936

- ii. Technical assistance**

None used

**B. BACKGROUND INFORMATION**

- i. Location and Legal Description:**

Located approximately 1.5 mile southwest of West Glacier at 2655 Old Highway 2 East, the subject property is legally described as Tract 1 of COS 19001 (aka Assessor's Tract 7) in Section 3, Township 31 North, Range 19 West, P.M.M., Flathead County, Montana. (see Figure 1 below).

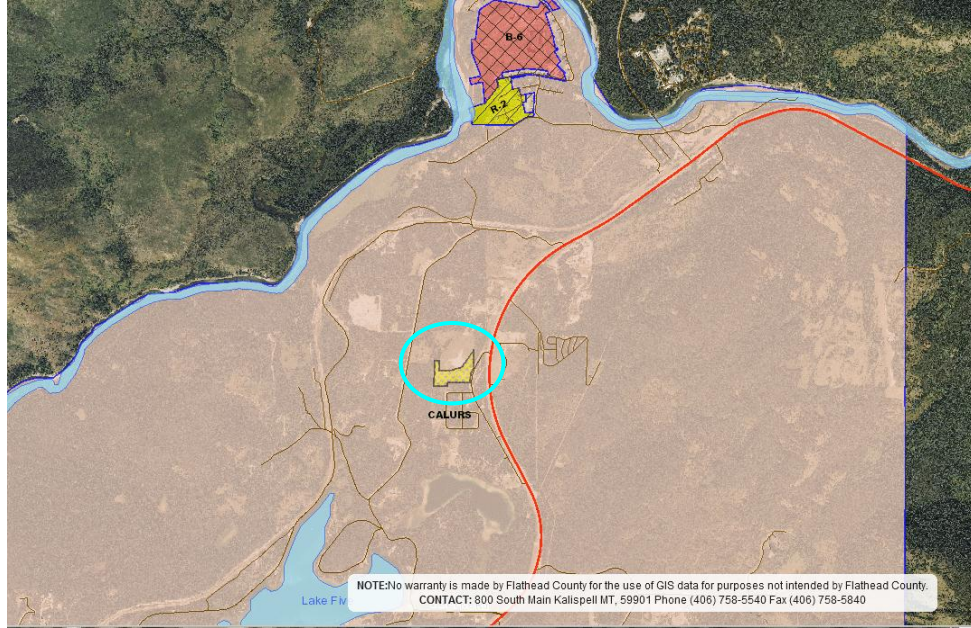
- ii. Size of the Property:**

The subject property is 10.01 acres in size.

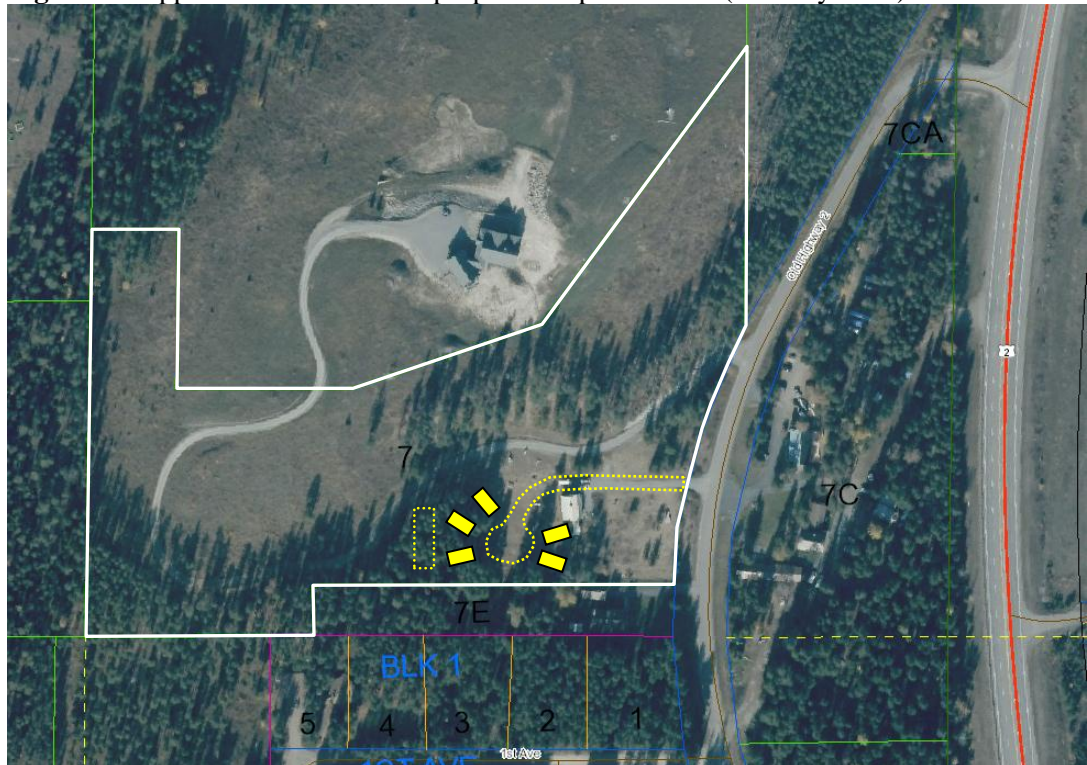
**iii. Current Use:**

The project site on the subject property is currently developed with a single-family residence accessed via a 14-foot wide gravel driveway approaching onto Old Highway 2. North of the project site on the subject property is a separate 14-foot wide gravel driveway providing residential access to the northerly adjacent property (Tract 7G) which is also owned by the applicant.

**Figure 1:** Location of subject property (circled blue)



**Figure 2:** Approximate location of proposed improvements (shown yellow)



**iv. Existing Zoning:**

The subject property is currently zoned “Middle Canyon” under the Canyon Area Land Use Regulatory System (CALURS). The term ‘Guest cabin’ is defined in Section 7.13 CALURS as “*A small detached dwelling unit that is rented for temporary occupancy much like a motel unit. Denotes a log cabin or rustic wood-type appearance that may include kitchen facilities and generally 1 or 2 bedrooms.*” ‘Guest Cabins’ is an available use within the Middle Canyon zoning district subject to review as a ‘Major Land Use’ per Section 6.2(C)(2) CALURS which states “*The number of permitted cabins is determined based on a land area ratio of 1 cabin per two acres. Maximum number of cabins per parcel shall be 10. Clustering is required to maximize area of contiguous open space.*”

**v. Nature of the Request:**

The applicant is requesting a permit for five rental cabins to be situated in the southeast corner of the subject property and accessed from a common 14-foot wide gravel driveway approaching onto Old Highway 2 and terminating in a cul-de-sac. The request is specifically for three 20’X30’ 3 bedroom + loft cabins and two 20’X18’ 2 bedroom cabins proposed to be served by an existing well and to share a new proposed onsite wastewater treatment system which would be situated to the west of the cabins. The existing residence located in close proximity to the cabins is proposed to be removed. Staff communicated verbally with the applicant on April 28, 2014 to clarify the proposed use, and Lindsey Bengtson said each cabin would be rented as one unit individually and no rooms within a cabin would be rented separately.

**vi. Agency Comment:**

Requests for comments from agencies were sent on April 4, 2014. As of the date of this report, comments have been received from the following agencies:

- Environmental Health Services
  - The proposed development would require review under the Sanitation in Subdivisions Act. During the review, water, wastewater disposal, and stormwater drainage must be addressed and comply with all MDEQ and Flathead County rules and regulations.
  - Rental cabins require licensure by the Montana Department of Public Health and Human Services Food and Consumer Safety Section as required in MCA 50.51.201(1). The activity must be conducted in accordance with ARM 37.111.1 Rules for Public Accommodations. A plan review is required. The licensure is conducted through Flathead County Environmental Health.
- Montana DNRC Water Resources Division
  - The existing water right is for one domestic household with a flow rate of 5 gpm out of a 27 foot deep well.
  - The applicant can obtain additional Groundwater Certificate right for the 5 cabins from the existing well by filing a DNRC Form 602 Notice of Completion of Groundwater Development. Typically, 5-6 gpm would not be considered adequate for the intended purpose. However determining flow rate and designing the system is entirely up to the applicant.
  - This parcel falls outside the Glacier National Park compact area.
- Montana Department of Transportation
  - Any new access or change in use of an existing access typically requires an approach permit to be approved by the MDT. The owner will need to contact the MDT

Kalispell Office and complete a Driveway Approach Application and Permit and an Environmental Checklist.

- Department of Energy, Bonneville Power Administration
  - Proposal will not impact any transmission line corridors in the area
- Flathead County Road and Bridge Department
  - No comments on the request
- Flathead County Solid Waste District
  - The facility should not use the local green-box site operated by Flathead County as the primary method for solid waste disposal, but instead should contract with Evergreen Disposal.

**vii. Public Comment:**

Adjoining property owners were notified by mail on April 21, 2014. As of the date of the completion of this staff report, one public comment has been received regarding the proposal which expressed disappointment that the proposal was not reviewed by the MCLUAC. Any written public comment received after April 30, 2014 will be summarized verbally and entered into the public record during the Planning Board hearing. Anyone wishing to provide verbal public comment may do so in person at the Planning Board public hearing.

**II. EVALUATION OF THE REQUEST**

The following is an evaluation of the request for five Guest Cabins for rent relative to the performance standards outlined in *CALURS Chapter 4: Performance Standards Applicable to Proposed Uses*.

**A. Outdoor Advertising**

The submitted application indicates a new signage measuring 5'X6' is proposed where the driveway approaches onto Old Highway 2. The proposed advertising signage would not comply with the performance standards for on-premises advertising outlined in Section 4.1(A)(3)(d) of CALURS because that section of the regulations limits the area of a single sign face to 20 square feet.

**Finding #1** – The proposed major land use application is not in compliance with the applicable Outdoor Advertising requirements because the proposed onsite advertising signage would exceed the maximum area of 20 square feet per single sign face allowed under Section 4.1(A)(3)(d) CALURS. Although the proposed sign would be non-compliant, the matter may be reasonably resolved through a condition of approval requiring compliance with the on-premises signage standards of Section 4.1(A)(3) CALURS.

**B. Access and Road Standards**

Located approximately 1.5 mile southwest of West Glacier, the subject property is accessed from Old Highway 2, an existing 24-foot wide paved public road within a 60 foot wide MDT right of way. As indicated on the submitted application, the existing gravel access road/driveway and proposed extension providing access to the Guest Cabins would be 14 feet in width with a cul-de-sac for ingress/egress. Staff discussed the proposed access with the Flathead County Road and Bridge Department who indicated the access would constitute a driveway and not a road because it only serves the subject property. This proposed access appears acceptable as the road width and slope generally complies with applicable driveway standards, design allows for adequate ingress and egress for customers and emergency vehicles, and an approach permit for the specific use would be required to be approved by the MDT.

**Finding #2** – The proposed access to the Guest Cabins meets applicable design standards outlined in Section 4.1.B CALURS because an existing 24-foot wide paved public road within a 60 foot wide MDT right of way would provide primary access to the site, the 14-foot width and gentle slope of the gravel driveway would comply with applicable driveway standards outlined in the Flathead County Subdivision Regulations, and an approach permit for the specific use would be required to be approved by the MDT.

### **C. Sanitation**

While the current residence planned for removal has an existing septic system constructed in the 1970's the proposed Guest Houses are planned to be served by a new on-site sewer system situated west of the cabins. According to the Flathead County Environmental Health Department and the Montana Department of Environmental Quality the proposed development would require review under the Sanitation in Subdivisions Act. During the review, water, wastewater disposal, and stormwater drainage must be addressed and comply with all MDEQ and Flathead County rules and regulations. Rental cabins require licensure by the Montana Department of Public Health and Human Services Food and Consumer Safety Section as required in MCA 50.51.201(1). The activity must be conducted in accordance with ARM 37.111.1 Rules for Public Accommodations. A plan review is required, and the licensure is conducted through Flathead County Environmental Health.

The Flathead County Solid Waste District has requested the Guest Cabins business use a contract hauler to bring solid waste to the landfill. Pursuant to in Section 4.1(C) CALURS the applicant should be required to meet the requirements of the Flathead County Solid Waste District.

**Finding #3** – The planned sanitation services appear adequate for the proposed use because the new wastewater treatment system to serve the Guest Cabins would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and Montana Department of Environmental Quality and solid waste would be managed and disposed of efficiently.

**Finding #4** – According to comment provided by the Flathead City-County Public Health Department the guest cabins would be required to be licensed as a public accommodation per MCA 50.51.102(1) by the Food and Consumer Safety Section of the Montana Department of Public Health and Human Services.

### **D. Flood Hazard**

According to Federal Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) 30029C1135G, the subject property is located in "Zone X". "Zone X" refers to areas determined to be outside the 0.2% annual chance floodplain. In other words, the subject property is not in the floodway, designated 100-year floodplain, or 500-year floodplain.

**Finding #5** – The site appears suitable for the proposed use because there are no regulated floodplains located on the subject parcel.

### **E. Natural Resource Protection**

The property does not contain any streams or natural drainages identified in the National Hydrography Dataset (NHD), and does not exhibit any wetland or riparian-type features classified by the National Wetlands Inventory (NWI) database.

Development of the proposed Guest Cabins would require some forest thinning and grading work at the site, but will not affect any portion of the subject property outside of the project area.

The soils onsite appear well-drained and stormwater drainage would be managed as required by the applicable review by MDEQ, likely be through swales and absorption into the ground. Operation of the proposed Guest Cabins is not anticipated to significantly impact the natural environment on the subject property or the protection of natural resources in the surrounding area.

**Finding #6** - The site appears suitable for the proposed use and will not impact critical natural resources because there are no wetlands, riparian areas, or other sensitive lands on the property, stormwater drainage may be effectively managed through absorption into the pervious soils onsite, and impacts of the proposed use on natural resources would appear similar and consistent with the current residential use of the property and surrounding area.

#### **F. Site Development**

The following site development evaluation is made pursuant to CALURS Section 4.1(F):

1. The proposal is not within a designated community center; and therefore is not eligible for the 6,000 sq ft minimum lot size.
2. The subject property is the Middle Canyon Region and the subject property complies with the minimum lot size requirement of 10 acres.
3. The proposed Guest Cabins would be served by water from an onsite well or wells and a new proposed onsite wastewater treatment system. As the subject property is approximately 10 acres in size, the proposal meets applicable bulk and dimensional requirements necessary to establish new structures requiring water or sewer.
4. Based on the submitted cabin design plans, the Guest Cabin structures would be built less than 35 feet in height above established grade as determined by the average elevation within 20 feet of the building footprint.
5. Electric and telephone utilities are already located on site, provided through the public access and utility easement of Old Highway 2.
6. No public improvements are proposed and the proposed water and sewer utilities are required to be designed and operated in accordance with all pertinent Administrative Rules and the locally issued septic permit.
7. New telephone and electric utilities are able to be installed and placed underground, and the proposed well and septic system would be placed underground.
8. The Guest Cabin structures, access road/driveway, and parking areas don't appear to have yet been designed, and the Major Land Use Permit may be conditioned to require the design to appropriately manage stormwater drainage. Stormwater management would be required to be reviewed under the applicability of the Sanitation in Subdivisions Act, and under such review it is likely that runoff from the cabins would be managed through infiltration in the surrounding gravel surfaces and natural vegetation, and runoff from the driveway would be managed via roadside swales or retention basins. Storm water generated from improvements is not anticipated to directly enter any water body as there are no surface waters in the close vicinity of the project site.
9. The submitted site plans are poorly drafted and are not made to scale. That said, it appears the Guest Cabin structures could be conditioned to be built in a manner to not intrude into the minimum setback areas from property lines or the road easement.
10. Applicable to hotels, motels, and cabins Section 6.03.030 Flathead County Zoning Regulations requires one parking space per guest room *or suite* plus one space per two



employees of maximum shift. The application indicates no extra employees are anticipated and the Guest Cabins will each have a driveway extending from the cul-de-sac to accommodate at least one vehicle for guests renting the cabins. The number of proposed parking spaces appears to comply with applicable requirements and the general configuration of the parking would provide enough area for a standard parking space while allowing for adequate ingress/egress with effective traffic circulation via the cul-de-sac and driveway feature.

11. As seen in Figures 1 and 2 above, the proposed Guest Cabins would occur on a tract of land located outside of a designated service center and the property has been partially thinned along the eastern boundary fronting Old Highway 2. Other forested areas remains in natural state on the property in the area where the cabins would be situated. As the front setback area is partially cleared the Major Land Use Permit should be conditioned to require at least 10% of the required setback area (2-feet) to be landscaped to provide visual screening from the commercial rental cabin use.
12. The proposed Guest Cabin structures and their associated improvements are not in areas with 25% or greater slope.
13. The proposed Guest Cabin structures don't extend above a ridge, hill, or elevated topography and are not visible from Highway 2.
14. While the proposal does not entail the division of land and creation of new lots, the proposed Guest Cabins demonstrate a clustered configuration consistent with the standard established for Guest Cabins in the Middle Canyon Region of CALURS as the proposed number of cabins is 1 per 2 acres and they would be clustered into a small area of the 10 acre property which is less than 25% of the subject property's acreage to maximize area of contiguous open space.
15. The proposed use is outside a designated service center.
  - a. The proposed Guest Cabin use is not visible from Highway 2. A minimal 2-foot strip of additional landscaping is required pursuant to Section 4.1(F)(11) CALURS.
  - b. The proposed Guest Cabin use is not accessed from Highway 2 and it is therefore not required to pave the access road/driveway or parking area.

**Finding #7** – The proposal substantially complies with the applicable criteria for site development because the property and proposed Guest Cabins and associated improvements are able to meet or exceed applicable bulk and dimensional and clustering requirements through imposition of conditions, utilities currently serve the subject property, the site plan indicates adequate parking exists for the proposed use, and additional landscaping required by Section 4.1(F)(11) CALURS would provide sufficient screening of the use from adjacent properties and roadways.

#### **G. Planned Community**

The proposed land use does not involve a planned community; this section of CALURS is not applicable to the proposal.

**Finding #8** - Planned Community standards are not applicable because the proposal is not a planned community.

#### **H. Dog Day Care Operations**

The proposed use is not for a Dog Day Care establishment; this section of CALURS is not applicable to the proposal.

**Finding #9** - Dog Day Care Operation standards are not applicable because the proposal is not for a dog day care facility.

### **III. PERFORMANCE GUIDELINES**

The performance guidelines in the CALURS system are not mandatory standards, but are suggested to be used whenever practical. The site of the proposed Guest Cabins appears to have been developed with minimal disturbance to the natural environment and in accord with the performance guidelines outlined in CALURS.

### **IV. MAJOR LAND USE APPLICATION REQUIREMENTS**

<b>Pre-application Conference:</b>	March 5, 2014
<b>Application Date:</b>	March 5, 2014
<b>Review &amp; Evaluation:</b>	April 29, 2014 (completed)

### **V. SUMMARY OF FINDINGS**

**Finding #1** – The proposed major land use application is not in compliance with the applicable Outdoor Advertising requirements because the proposed onsite advertising signage would exceed the maximum area of 20 square feet per single sign face allowed under Section 4.1(A)(3)(d) CALURS. Although the proposed sign would be non-compliant, the matter may be reasonably resolved through a condition of approval requiring compliance with the on-premises signage standards of Section 4.1(A)(3) CALURS.

**Finding #2** – The proposed access to the Guest Cabins meets applicable design standards outlined in Section 4.1.B CALURS because an existing 24-foot wide paved public road within a 60 foot wide MDT right of way would provide primary access to the site, the 14-foot width and gentle slope of the gravel driveway would comply with applicable driveway standards outlined in the Flathead County Subdivision Regulations, and an approach permit for the specific use would be required to be approved by the MDT.

**Finding #3** – The planned sanitation services appear adequate for the proposed use because the new wastewater treatment system to serve the Guest Cabins would be required to be reviewed and approved as applicable by the Flathead County Environmental Health Department and Montana Department of Environmental Quality and solid waste would be managed and disposed of efficiently.

**Finding #4** – According to comment provided by the Flathead City-County Public Health Department the guest cabins would be required to be licensed as a public accommodation per MCA 50.51.102(1) by the Food and Consumer Safety Section of the Montana Department of Public Health and Human Services.

**Finding #5** – The site appears suitable for the proposed use because there are no regulated floodplains located on the subject parcel.

**Finding #6** - The site appears suitable for the proposed use and will not impact critical natural resources because there are no wetlands, riparian areas, or other sensitive lands on the property, stormwater drainage may be effectively managed through absorption into the pervious soils onsite, and impacts of the proposed use on natural resources would appear similar and consistent with the current residential use of the property and surrounding area.

**Finding #7** – The proposal substantially complies with the applicable criteria for site development because the property and proposed Guest Cabins and associated improvements are able to meet or exceed applicable bulk and dimensional and clustering requirements through imposition of conditions, utilities currently serve the subject property, the site plan indicates adequate parking



exists for the proposed use, and additional landscaping required by Section 4.1(F)(11) CALURS would provide sufficient screening of the use from adjacent properties and roadways.

**Finding #8** - Planned Community standards are not applicable because the proposal is not a planned community.

**Finding #9** - Dog Day Care Operation standards are not applicable because the proposal is not for a dog day care facility.

## **VI. CONCLUSION**

In accordance with the provisions of Chapter 3 of the Canyon Area Land Use Regulatory System (CALURS), a review and evaluation of the Major Land Use application for 'Guest Cabins' has been completed. In consideration of the nine (9) Findings of Fact summarized above the proposal appears to generally comply with the applicable criteria found in Chapters 4 and 5 of CALURS. Should the Planning Board forward a recommendation of approval of this proposed land use to the Flathead County Commissioners, the following conditions should be considered to supplement that recommendation.

## **VII. CONDITIONS OF APPROVAL**

1. This major land use permit allows for the establishment of five (5) Guest Cabins to be rented individually on the subject property as configured and depicted in the submitted application materials on file with Flathead County.
2. The proposed water and sewage treatment systems and storm drainage systems for the major land use proposal shall be reviewed by the Flathead City-County Health Department and approved by the Montana Department of Environmental Quality. The written approval(s) shall be available to the Flathead County Planning and Zoning Office upon request.
3. All signage on the subject property shall comply with the on-premises signage standards of Section 4.1(A)(3) of the Canyon Area Land Use Regulatory System (CALURS). Particularly, onsite advertising signage shall not exceed the maximum area of 20 square feet per single sign face, per Section 4.1(A)(3)(d) CALURS.
4. All new electrical and telephone utilities established for the Guest Cabins shall be extended underground.
5. Solid waste removal shall be hauled by the Public Service Commission licensed hauler for the area and conducted in a manner approved by the director of the Flathead County Solid Waste District. Solid waste shall be stored inside the cabin structures or within a secure enclosed external storage facility to minimize the attraction of wildlife.
6. The proposed RV park expansion shall be in substantial conformance with the site plan and materials submitted with this application and on file in the Flathead County Planning and Zoning Office, except as modified by the conditions approved by the Flathead County Board of Commissioners.
7. The applicant shall obtain an approved applicable Public Accommodations License as from the Montana Department of Public Health and Human Services prior to commencing operation and rentals of the Guest Cabins. The written approval must be available to the Flathead County Planning and Zoning Office upon request.
8. The applicant shall obtain a commercial building permit and a commercial electric permit, as applicable, from the Building Codes Bureau of the Montana Department of Labor and Industry Business Standards Division. The permits shall be available to the Flathead County Planning and Zoning Office upon request.

9. The applicant must obtain a new or revised approach permit specific to the Guest Cabins from the Montana Department of Transportation. The approved permit must be available to the Flathead County Planning and Zoning Office upon request.
10. A 2-foot landscaping area shall be established and maintained along the front (eastern) property boundary.
11. All Guest Cabins and associated buildings and structures shall be set back from the side (southern) property boundary at least 10 feet and from the front and rear (eastern and western) property boundaries at least 20 feet.
12. At least one(1) standard parking space shall be provided for each Guest Cabin in accordance with the applicable standards established in Sections 6.01-6.10 of the Flathead County Zoning Regulations.
13. Within one year from the date of issuance of this permit, Planning and Zoning Department staff may perform an inspection to ensure compliance with the conditions of approval.